



OFFICE OF THE PUBLIC DEFENDER

ANNUAL REPORT

2006

In June 2006, a commission appointed by the Chief Judge of the State of New York issued a report on the "Future of Indigent Defense Services." The commission issued its report after "the most comprehensive study of indigent defense representation ever undertaken in New York State" was conducted by the Spangenberg Group from Cambridge, Massachusetts. The commission reported that the Spangenberg Group report "depicts the real crisis that exists in the provision of indigent defense services in New York City and throughout the state. The seriousness of its principal conclusions--that funding for indigent defense services is totally inadequate and that the system, as presently constituted, is dysfunctional--cannot be minimized" (Final Report to the Chief Judge of the State of New York, Commission On the Future of Indigent Defense Services, June 18, 2006, page 2).

It should be noted that one of the critical findings of the commission was that "the amount of monies currently allocated within the State of New York for the provision of constitutionally-mandated indigent criminal defense is grossly inadequate" which has resulted in "virtually all institutional defenders... having to labor under excess caseloads." Unfortunately, this Annual Report confirms what the Chief Judge's commission found, the caseloads of the attorneys in this office are excessive and significantly above the recommended standards for maximum caseloads.

Since the 2005 Annual Report explained the history and administrative system of this Public Defender's Office, the information regarding the establishment, jurisdiction and administrative staffing of each of the sections in the office may be found in that report and will not be repeated in this year's report. Rather, this report will highlight and explain the activities of each of the sections in this office in an effort to provide a better understanding of the quantity and quality of the work being performed by the Public Defender's staff.

ANALYSIS

A. CITY COURT/PAROLE

In 2006, this Office was called upon to represent clients in approximately 11,280 cases in the City Court of Rochester. In addition, the attorneys in this section were assigned to represent more than 1,100 parolees who were charged with violating the conditions of their parole release. That means, on average, each Assistant Public Defender in this section would have been assigned to approximately 1,000 cases during the course of the year. That number of case assignments is **more than double the recommended maximum caseload** as established by the National Legal Aid and Defender's Association. Our City Court staff was involved in defending 115 trials last year. Despite the enormous strain created by a heavy caseload, the results of our trial activity are excellent. More than 75% of our trials were "successful" in that our client was either acquitted of the pending charge, found guilty of a lesser charge, or had their charges dismissed by court.

The number of parolees represented by the Monroe County Public Defender on charges of violating conditions of their release increased dramatically from past years. In 2006, the Monroe County Public Defender was assigned to represent 1,102 parolees. This work included representation of clients at 1088 parole hearings. We are particularly proud of the fact that in 282 cases, our attorneys were successful in advocating for the placement of our clients in alternative drug treatment programs. In 2006, 243 clients were placed in the Willard Drug Treatment Program and 39 clients were placed in the High Intensity Incarceration Program (HIIP) at the Monroe County Jail. Additionally, in 42 cases our

attorneys, with the assistance of the Alternative to Incarceration Program, were able to find a community based treatment program for chemical dependency which the Parole Board accepted as an alternative to the reincarceration of our clients. Such placements in treatment programs save both the County Jail and State Department of Corrections considerable money in terms of fewer prison days. It is our hope that the placement of parolees in appropriate treatment programs increases the likelihood that the parolees will successfully control their chemical addiction and eventually become productive members of our community.

Throughout the year our student internship program continued to be successful. Various local colleges send students to our office where, for course credit, they are involved in the interviewing of potential clients, as well as performing other functions of great assistance to our attorneys. Given the tremendous caseload of our attorneys, without the additional assistance provided by this volunteer program, it would be virtually impossible for the attorneys to effectively carry out their assignments.

B. JUSTICE COURT

In 2006, approximately 3,979 cases were assigned to our Justice Court Staff of six full-time attorneys. Therefore, each of the newly hired attorneys in the section was assigned to an average of approximately 660 cases. In the busier courts, our caseload is compressed due to the fact that the court is only in session once or twice a week. This means that an attorney may be required to represent as many as eighty clients during a single court night.

Last year our Town Court staff tried 53 cases. In 40 of those 53 cases, our client was either acquitted, found guilty of a lesser charge, or had their charge dismissed by the court.

Last year we continued to utilize volunteer student interns who assist our staff in interviewing clients who come to our office in need of legal representation after their arraignment. This volunteer program enables us to promptly interview our clients and gather the necessary information without needing to use our attorney resources. The volunteer program, coupled with a great deal of effort by our attorney staff, results in the judges releasing the majority of our clients from jail before their next court date, preventing needless pre-trial incarceration.

C. FAMILY COURT

In 2006, this office was assigned to represent 2,740 new clients. To put this caseload into a historical perspective, ten years ago the six attorneys in our Family Court Section were assigned to represent approximately 1,300 clients. Last year, our eight Family Court attorneys was required to provide representation to approximately 2,700 clients. That caseload is **more than twice the recommended maximum** standards, which suggest that a maximum of 150 cases be assigned to each Family Court attorney per year.

It should be noted that in 2006, we were assigned to represent 50 clients whose parental rights were sought to be terminated by the Department of Social Services. Additionally, we were assigned to approximately 203 cases in the area of child neglect and abuse and 480 Family Offense cases.

D. SUPERIOR COURT

In 2006, we were assigned to approximately 3,405 felony matters. The felony caseload per attorney ratio is approximately 180 new felony cases per attorney. That represents a current case assignment rate which is 50% above National Legal Aid and Defender's Association Standards for caseload maximums.

In 2006, our felony trial staff was involved in 73 trials. In 24 of those cases, our client was acquitted or had the charges dismissed. Additionally, in 21 other cases our client was acquitted of the charged offense and convicted of only a lesser charge. As a result, we were "successful" in more than 60% of our felony trials.

E. APPEALS BUREAU

The attorneys in the Appeals Bureau are primarily responsible for representing persons appealing felony convictions and providing assistance to trial court attorneys. Additionally, this Bureau is responsible for handling family court appeals and representing individuals who appear before the court under the Sex Offender Registration Act (SORA) for purposes of registration and classification.

In 2006, the Bureau filed 199 briefs. Additionally, we filed legal papers before the Superior Courts, Appellate Division and Court of Appeals on 131 cases. Some of these cases involve the filing of motions on appeals that were ultimately resolved without the need for full briefing and oral argument.

Finally, the Bureau has continued to assist in the research, analysis and presentation of trial court cases. This work is

instrumental in insuring that our attorneys are able to provide the best possible representation. This work occurs on a variety of levels. Pretrial motions and written requests for jury charge in felony cases are regularly reviewed and edited by attorneys from this Bureau. Additionally, our appellate attorneys researched numerous evidentiary issues and assisted our trial attorneys on other collateral issues which sometimes arise during the course of representation.

F. INVESTIGATIVE SECTION

In 2006, the Monroe County Public Defender's Office employed six full-time investigators, one of whom is the Chief Investigator in charge of the section.

The statistics for 2006 are as follows:

	Criminal Trial Parts	Family Court Appeals Court	Total
Investigations/ Interviews	2,710	302	3,012
Subpoenas	651	204	855
Other Misc. Matters	264	33	296

From these statistics it is clear that approximately 3000 criminal investigations were done by our investigative staff in 2006. The work performed by our investigative staff is reflected in our ability to successfully resolve cases either by trial or disposition for our clients.

COMMUNITY INVOLVEMENT

I feel it is important to indicate that the staff of this office does a truly outstanding job. Not only are we committed to

the service of the indigent accused, but we also want to make a contribution to our community and to agencies or groups who are concerned about those in need. This commitment is reflected in the fact that many members of this office are active members, volunteers, and/or board members in more than 15 agencies and organizations within the community.

Before concluding, I would like to indicate that members of the community are also interested in and take an active role in this office. Since becoming Public Defender in April 1977, I have established a Public Defender Advisory Committee. The individuals on this committee have been of valuable assistance to me in planning to meet the needs of our community. The members of this committee represent the following agencies or organizations: Action for a Better Community; Ibero-American Action League; Jail Ministry; Judicial Process Commission; League of Women Voters; Monroe County Bar Association; Task Force on the Courts; and the Urban League of Rochester.

CONCLUSION

Each member of the Public Defender's Office is proud of the amount of work done in the past year, but each individual takes a great deal more pride in the quality of the services we provide. We continue to stress respect for the judicial process and absolute integrity in the handling of all cases assigned to this office.

In concluding, it is important to note that the success that we as an office have achieved is due in part to the support given to us by the Monroe County Legislature. We would like to take this opportunity to express our thanks for that support, and we look forward to your support in the future.

PUBLIC DEFENDERS

Charles L. Willis	July, 1968 - Dec., 1969
Nicholas P. Varlan	Jan., 1970 - Dec., 1973
Peter L. Yellin	Apr., 1974 - Jan., 1977
Edward J. Nowak	Apr., 1977 - present

Respectfully submitted for
The Public Defender's Office

EDWARD J. NOWAK
Monroe County Public Defender

COURT ACTIVITY SUMMARY 2006

NEW DEFENDANTS..... 23,253

FELONY..... 1,405

FELONY (Drug A and B).. 620

FELONY (VFO)..... 1,174

MISDEMEANOR.....10,152

VIOLATION..... 4,274
(City and Justice)

PROBATION VIOLATION.... 616
(Superior)

PROBATION VIOLATION.... 833
(City and Towns)

APPEALS..... 199

FAMILY COURT..... 2,740

PAROLE..... 1,102

FUGITIVES..... 88

SORA..... 50

PLEAS AS CHARGED.....3,909

FELONY..... 541

MISDEMEANOR..... 2,556

VIOLATION..... 812

PLEAS TO LESSER

FELONIES.....1,365

To Lesser Felony..... 827

To Misdemeanor..... 168

To Misdemeanor..... 370
(Local Ct.)

PLEAS TO LESSER (Con't)

MISDEMEANORS..... 3,021

To Lesser Misd..... 820

To Violation..... 2,201

CLOSED CASES: [OTHER]:

A.C.D..... 2,429

PRIVATE ATTY..... 511

ASSIGNED COUNSEL..... 2,493

W/D D.A..... 1,088

DIS'D ON MOTION..... 1,727

NO BILL BY GRAND JURY..... 292

TRIALS..... 241

FELONY..... 73

MISDEMEANOR..... 118

VIOLATION..... 50

FINDING AFTER TRIAL

GUILTY AS CHARGED
(or to part of indict.
when highest court)..... 65

GUILTY TO LESSER
(or to part of indict.
when lesser court)..... 74

NOT GUILTY..... 81

TRIAL ORDER OF DISMISSAL..... 17

MISTRIAL..... 4

SENTENCES:

JAIL.....	3,956
FELONY.....	897
MISDEMEANOR.....	3,059
PROBATION.....	995
FELONY.....	421
MISDEMEANOR.....	574
PROBATION & JAIL.....	569
FELONY.....	435
MISDEMEANOR.....	134
COND. DISCHARGE.....	3,104
MISDEMEANOR.....	3,104
UNCOND. DISCHARGE.....	31
YOUTHFUL OFFENDER.....	276
FELONY.....	121
MISDEMEANOR.....	155
<u>APPEALS CASES CLOSED</u>	155
<u>APPEALS PENDING</u>	608
<u>BRIEFS FILED</u>	199
<u>FAMILY COURT CLOSED</u>	2,253
<u>PAROLE HEARINGS</u>	1,088
<u>PAROLE CASES CLOSED</u>	1,043

PUBLIC DEFENDER STAFF
(as of 4/2/07)

Administration

Nowak, E.	Public Defender
Shiffrin, B.	1 st Asst. Pub. Def.
Cassetti, J.	Conf. Asst. to the Public Defender
Prescott, M.	Exec. Secretary to the Public Defender
Colon, M.	Receptionist-Bilingual
Rivera, N.	Receptionist-Bilingual

Superior Court

Brazill, R.	2 nd Asst. Pub. Def.
Cianca, J.	Spec. Asst. (Non-VFO)
Bradley, J.	Spec. Asst. (Drug)
Teifke, E.	Spec. Asst. (VFO)
Vitale, A.	Spec. Asst.

Lamb, P.	Secretary
Li Muti, F.	Secretary

Appeals

Bailey, K.	Asst. Pub. Def.	DuBrin, D.	Spec. Asst. (Appeals)
(Vacant)	Asst. Pub. Def.	Batz, P.	Secretary
Buitrago, M.	Asst. Pub. Def.	DeMonte, J.C.	Secretary
Doran, M.	Asst. Pub. Def.		
Karnyski, K.	Asst. Pub. Def.		
Lopez, M.	Asst. Pub. Def.	Abbatoy, D.	Asst. Pub. Def.
Ratchford, B.	Asst. Pub. Def.	Chamblee, M.	Asst. Pub. Def.
Riley, E.	Asst. Pub. Def.	Clauss, W.	Asst. Pub. Def.
Sartori, S.	Asst. Pub. Def.	Dolan, E.	Asst. Pub. Def.
Scalia, D.	Asst. Pub. Def.	Donaher, T.	Asst. Pub. Def.
Staropoli, L.	Asst. Pub. Def.	Eckert, J.	Asst. Pub. Def.
Stubbe, J.	Asst. Pub. Def.	Somes, J.	Asst. Pub. Def.
Winward, T.	Asst. Pub. Def.		

City Court

Paperno, J.	Special Assistant
Cook, K.	Secretary
Tobias, L.	Secretary
Allen, F.	Invest. Asst.
Warner, S.	Invest. Asst.

Abdallah, W.	Asst. Pub. Def.
Bartus, K.	Asst. Pub. Def.
Brach, K.	Asst. Pub. Def.
Catalano, C.	Asst. Pub. Def.
Griffin, J.	Asst. Pub. Def.
Haselbauer, K.	Asst. Pub. Def.
Johnson, N.	Asst. Pub. Def.
Judge, C.	Asst. Pub. Def.
Maure, H.	Asst. Pub. Def.
Newman, E.	Asst. Pub. Def.
Van Hooft, B.	Asst. Pub. Def.
Willkens, M.	Asst. Pub. Def.

Justice Court

Duguay, D.	Special Assistant
Morley, L.	Secretary
McKie, M.	Secretary
Camacho, M.	Invest. Asst.
Sands, K.	Invest. Asst.

Conner, A.	Asst. Pub. Def.
Griffin, M.	Asst. Pub. Def.
Gross, R.	Asst. Pub. Def.
Oathout, B.	Asst. Pub. Def.
Oren, A.	Asst. Pub. Def.
Yoon, J.	Asst. Pub. Def.

Family Court

Guglin, T.	Special Assistant
Stephens, E.	Secretary
Ciaccia, C.	Paralegal (Job Share)
Lucania, S.	Paralegal (Job Share)

Altman, J.	Asst. Pub. Def.
Bayer, P.	Asst. Pub. Def.
Bourne, L.	Asst. Pub. Def.
Fine, A.	Asst. Pub. Def.
Lacagnina, M.	Asst. Pub. Def.
Turner, R.	Asst. Pub. Def.
Wirley, B.	Asst. Pub. Def.

Investigations

DuMont T.	Chief Investigator
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Brugnoni, J.	Spec. Urban Inv.
Johnson, J.	Spec. Urban Inv.
Pagan, G.	Spec. Urban Inv.
(Vacant)	Spec. Urban Inv.
Swift, L.	Spec. Urban Inv.

Alternatives to Incarceration

Crabb, S.	ATI Worker
Begley, J.	ATI Worker